

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA

§

§

§ CRIMINAL NO. 4:98CR14(29)

v.

§

§

JOHNNY MARIO URBANO

§

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release.

After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on October 20, 2009 to determine whether the Defendant violated his supervised release. The Defendant was represented by Robert Arrambide. The Government was represented by Miriam Rea.

On October 16, 1998, the Defendant was sentenced by the Honorable Paul Brown, United States District Judge, to 151 months imprisonment followed by a 5-year term of supervised release for the offenses of conspiracy to possess controlled substances with intent to distribute, conspiracy to distribute controlled substance, and use of a communication facility to commit a controlled substance. This case was re-assigned to the Honorable Michael H. Schneider on November 14, 2006. Defendant began his term of supervision on April 25, 2008.

On September 25, 2009, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (Dkt. 1242). The petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall refrain from any unlawful use of a controlled substance, and Defendant shall submit to one drug test within 15 das of release from

imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer; (2) Defendant shall participate in a program of testing and treatment for drug abuse, as directed by the probation officer, until such time as Defendant is released from the program by the probation officer.

The petition alleges that Defendant committed the following violations: (1) on April 20, 2009, Defendant admitted verbally and in writing to Senior U.S. Probation Officer Linda Werner that he used methamphetamine on April 16, 2009; (2) on April 27, 2009, Defendant submitted a urine specimen at The Alterman Group, Plano, Texas, which tested positive for methamphetamine; (3) on May 26, 2009, Defendant submitted a urine specimen which tested positive for methamphetamine, and he admitted verbally and in writing to said drug use; (4) on September 1, 2009, Defendant admitted verbally to Senior U.S. Probation Officer Linda Werner and substance abuse treatment provider Bob Alterman that he used marijuana two weeks prior; (5) Defendant failed to attend substance treatment at The Alterman Group, Plano, Texas, on April 27, May 5, June 26, July 27, and during the months of August and September 2009, as directed; and (6) Defendant failed to submit urine specimens on May 11 and 15, June 15, August 17 and 25, and September 14, 18, and 22, 2009, as directed.

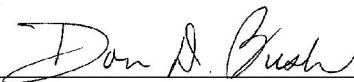
At the hearing, Defendant entered a plea of true to the alleged violations. The Court finds Defendant violated the terms of his supervised release. The Court further finds that Defendant's supervised release should be revoked. Defendant has waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court.

Defendant also offered a statement to the Court regarding the proposed sentence.

RECOMMENDATION

Having heard the arguments of counsel and statement of Defendant, the Court recommends that the District Court revoke the Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that the Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of thirteen (13) months, with no supervised release to follow.

SIGNED this 20th day of October, 2009.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE